

TITLE 4, DIVISION 9.5. CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

**NOTICE OF PROPOSED RULEMAKING
15-Day Public Comment Period**

NOTICE IS HEREBY GIVEN as required by Sections 11346.8(d), 11346.9(a)(1), and 11347.1 of the Government Code that the California Debt Limit Allocation Committee (Committee) proposes to add the attached Revised Initial Statement of Reasons to the proposed rulemaking file no. 2013-0806-09. After considering all comments, objections, and recommendations, the rulemaking file will be resubmitted for consideration to the Office of Administrative Law.

PUBLIC HEARING

The California Debt Limit Allocation Committee (Committee) has not scheduled a public hearing on this proposed action.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed rulemaking file additions to the Committee. Comments may also be submitted by facsimile (FAX) at (915) 653-6827 or by e-mail to cdlac@treasurer.ca.gov. The written comment period closes at 5:00 p.m. on September 19, 2013. The Committee will consider only comments received at the Committee offices by that time. **Submit comments to:**

**Leslie Campaz
Regulations Analyst
California Debt Limit Allocation Committee
915 Capitol Mall, Room 304
Sacramento, CA 95814
(916) 653-8018**

Please direct requests for copies of the Revised Initial Statement of Reasons to the contact at the above address.

AUTHORITY AND REFERENCE

Authority: Section 8869.94, California Government Code. Section 8869.94 of the Code authorizes the Committee to adopt regulations relating to an allocation system to administer the state unified volume ceiling as emergency regulations and instructs the Office of Administrative Law to consider such regulations to be “necessary for the immediate preservation of the public peace, health and safety or general welfare.”

Reference: Sections 8869.80 to 8869.94, California Government Code. These Regulations implement, interpret and make specific Sections, 8869.80 to 8869.94 of the Code.

AVAILABILITY OF THE STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Committee will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

No changes to the proposed text disclosed during the 45-day public comment period are being considered at this time. If the Committee makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Committee adopts the regulations.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Leslie Campaz at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Revised Initial Statement of Reasons, the Economic Impact Analysis, and the proposed text of the regulations in underline and strikeout can be accessed through our website at <http://www.treasurer.ca.gov/cdlac/index.asp>

Revised Initial Statement of Reasons

List of forms to be incorporated by reference:

- Annual Applicant Public Benefits and Ongoing Compliance Self-Certification (8-05-13)
- Competitive Application For An Allocation Of The State Ceiling On Qualified Private Activity Bonds For A Qualified Residential Rental Project (QRRP) (5-15-13)
- Non-Competitive Application For Allocation Of The State Ceiling On Qualified Private Activity Bonds For A Qualified Residential Rental Project (QRRP) (5-15-13)
- Competitive Application For An Allocation Of The State Ceiling On Qualified Private Activity Bonds For A Qualified Residential Rental Project (QRRP) Universal Application Addendum (5-15-13)
- Non-Competitive Application For An Allocation Of The State Ceiling On Qualified Private Activity Bonds For A Qualified Residential Rental Project (QRRP) Universal Application Addendum (5-15-13)

The Committee is authorized to adopt regulations relating to an allocation system to administer the state unified volume ceiling as emergency regulations (California Government Code 8869.94).

These Regulations primarily address the statutory mandate, Section 8869.84(c) of the Code, to create an allocation system to administer the state unified volume ceiling. The proposed allocation system will provide tax exempt private activity bond allocation (state ceiling) to state and local agencies, and promote the following: housing for lower income families and individuals; and preserving and rehabilitating existing governmental assisted housing for lower income families and individuals. More specifically, the proposed regulations will allow applicants expanded access to the available point categories and ensure that compliance of the regulation requirements is monitored by every CDLAC applicant.

The objective of these Proposed Regulations is to ensure applicants take full advantage of the Qualified Residential Rental Program application process and adhere to the compliance monitoring requirements, thus creating more low income housing developments for residents of California and to provide public benefits to the residents of these projects. (Government Code 11346.5(a)(3)(C).

CDLAC has conducted an evaluation of existing state regulations and has determined that the Proposed Regulations are not inconsistent or incompatible with existing state regulations. (California Government Code 11346.5(a)(3)(D).

Chapter 2, Article 1, Section 5000. Definitions.

Necessity: The form “Annual Applicant Public Benefits and Ongoing Compliance Self-Certification” is being updated to include certification requirements for Qualified Energy Conservation Bond (QECB) Applicants. All other Committee Applicants are already required to submit this annual certification on March 1st of each year. The QECB program was initially excluded from the requirement while staff developed an appropriate tracking system for the program. The tracking system is now in place and the first certifications would be due to the

Committee in March of 2014. In addition to this change, staff has adjusted language within the form for clarity.

Necessity: The term “Final and Conclusive Determination Letter” is being added and defined in the list of definitions.

Chapter 2, Article 3, Section 5190. Minimum Requirements.

Necessity: Proposed language clarifies that those Qualified Residential Rental Pool Projects with redevelopment-related project financing that is subject to the approval of the Department of Finance are required to have obtained a Final and Conclusive Determination Letter prior to submitting an application to the Committee. The dissolution of the redevelopment agencies has delayed many Qualified Residential Rental Project closings, often requiring an Applicant to request a bond issuance extension or revert their awarded allocation to the Committee. Confirmation of a Final and Conclusive Determination Letter issued by the Department of Finance will help to insure that projects are prepared to close by the Committee’s established issuance deadline.

Chapter 2, Article 5, Section 5205. Minimum Requirements.

(a)

Necessity: Past Applicants have questioned whether or not a waiver of these Sustainable Building Standard requirements were necessary when the elements were not part of the proposed scope of work or a required improvement stated in the Capital Needs Assessment. Proposed language clarifies that the requirements of subsections (2) through (11) of this section are only applicable when investment in such elements is proposed in the Project’s scope of work and/ or the Capital Needs Assessment

(a)(5)

Proposed language enables the use of fiberglass on exterior doors. When requesting a waiver of the standard door requirement, past applicants have provided fiberglass door specifications for doors that have been designed with an equivalent quality and energy efficiency of those wood and metal doors currently accepted by the Committee. In addition to the existing door options, the proposed change would allow fiberglass doors to be accepted as meeting the standard with no waiver requirement.

(a)(6) and (a)(9)

Currently, this section allows various elements of the sustainable building standards to be waived with justification. Applicants are currently submitting the waiver requests 1-2 days prior to the application deadline or simply including the waiver in the application contents. The proposed language requires that all waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline. This requirement will allow staff sufficient time to review and respond to the waiver request prior to the application being submitted. Applicants will also be spared the possibility of paying and ultimately losing the \$600 non-refundable application if a waiver is not granted.

(a)(9)

With new manufacturing options emerging regularly, the Committee has established that a minimum floor thickness is no longer necessarily a confirmation of sustainable flooring. As such, the proposed language no longer requires that floor coverings have a minimum thickness. This also realigns CDLAC regulations with the Tax Credit Allocation Committee's regulations regarding flooring.

Chapter 2, Article 6, Section 5212. Capital Needs Assessment.

Necessity: For a Capital Needs Assessments (CNA) prepared more than six (6) months from the application deadline, staff will no longer require that a new CNA be prepared so long as a cover letter from the CNA provider is included with the CNA stating that the information contained in the CNA remains true and correct. CNA's prepared more than twelve (12) months from the application deadline will not be accepted.

Chapter 2, Article 8, Section 5230. Evaluation Criteria.

(j)(2)(E)

Necessity: The proposed language clarifies two and one-half (2 ½) points will be awarded to Projects located within 1/4 mile of a pharmacy (for Rural projects 1/2 mile). This realigns CDLAC regulations with the Tax Credit Allocation Committee's regulations.

(j)(2)(E)

To ensure public benefit points are provided to projects that provide low and moderate income residents accessible medical services in their immediate area, the proposed language requires that medical clinics accept Medi-Cal payments or have an equally comprehensive subsidy program for low-income patients. This realigns CDLAC regulations with the Tax Credit Allocation Committee's regulations.

(l)(1)(E)

Past applicants have had difficulty understanding the full time equivalent (FTE) formula definition. Proposed language thoroughly defines the full time equivalent (FTE) formula.

Chapter 2, Article 10, Section 5250. Application Requirements.

Necessity: Proposed language allows for projects that have been receiving and will continue to receive state or federal project-based rental assistance or a state or federal operating subsidy for a minimum of the last five (5) years to take advantage of the market study waiver exception.

**Other Matters Prescribed by Statutes Applicable
to the Specific State Agency or to any
Specific Regulation or Class of Regulations**

No other matters are prescribed by statute applicable to the Committee or to any specific regulation or class of regulation pursuant to Section 11346.1(b) or 11346.5(a)(4) of the California Government Code pertaining to the Emergency Regulations or to the Committee.

Mandate on Local Agencies or School Districts

The Executive Director of the Committee has determined that the Emergency Regulations do not impose a mandate on local agencies or school districts.

Economic Impact Assessment
(Government Code section 11346.3, subdivision (b))

For amendments to the CDLAC Regulations related to the QRRP Applications and Site and Service Amenity requirements.

Action and Impact

Creation of a Final and Conclusive Letter definition

The term “Final and Conclusive Determination Letter” is being added and defined in the list of definitions. The proposed regulations will not have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business with the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

Clarification language regarding Final and Conclusive Determination Letters

In an effort to guarantee projects have all necessary Redevelopment Area (RDA) funding secured for project construction or rehabilitation, the proposed language requires that those Qualified Residential Rental Pool Projects with RDA-related project financing subject to the approval of the Department of Finance (DOF) are required to have obtained a Final and Conclusive Determination Letter prior to submitting an application to the Committee. DOF has communicated to the Committee and the public that absent such letter, projects with conditional RDA commitments may be subject to denied funding disbursements. This would ultimately result in project delays or possibly cancellations. The amendment to this minimum requirement category will not have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business with the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

Amendments to the Sustainable Building Standard Requirements (a), (a)(5), (a)(6), (a)(9)

(a)

In the past, applicants have questioned whether or not a waiver of these Building Standard requirements were necessary when the elements were not part of the proposed scope of work or a required improvement stated in the Capital Needs Assessment. Proposed language clarifies that the requirements of subsections (2) through (11) of this section are only applicable when investment in such elements is proposed in the Project’s scope of work and/ or the Capital Needs Assessment. The amendment to this minimum requirement category will not have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business with the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

(a)(5)

Proposed language enables the use of fiberglass with no waiver requirement. Past applicants have provided fiberglass door specifications for doors that have been designed with an equivalent quality and energy efficiency of those wood and metal doors currently accepted by the Committee. The amendment to this minimum requirement category will not have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business with the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

(a)(6) and (a)(9)

The proposed language requires that all waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline. In the past, staff has regularly received an influx of waiver requests only 1-2 days prior to the application deadline. As a result, waiver requests were often required to be reviewed during the regular application review period. This delayed the regular review period and at times, required staff to reject applications already in house due to the denial of a waiver request. The new requirement will allow staff sufficient time to review and respond to a waiver request prior to the application being submitted. The amendment to this minimum requirement category will not have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business with the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

(a)(9)

With new manufacturing options emerging regularly, the Committee has established that a minimum thickness is no longer necessarily a confirmation of sustainable flooring. As such, the proposed language no longer requires that floor covering have a minimum thickness. This also aligns CDLAC regulations with the Tax Credit Allocation Committee's regulations regarding flooring. The amendment to this minimum requirement category will not have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business with the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

Amendment to the Capital Needs Assessment Requirement

For a Capital Needs Assessment (CNA) prepared more than six (6) months from the application deadline, staff will no longer require that a new CNA be prepared so long as a cover letter from the CNA provider is included with the CNA stating that the information contained in the CNA remains true and correct. The amendment to this minimum requirement category will not have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business with the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

Amendment to the Medical Clinic Site Amenity Point Category (j)(2)(E), (l)(1)(E)

(j)(2)(E)

The proposed language clarifies two and one-half (2 1/2) points will be awarded to Projects located within ¼ mile of a pharmacy (for Rural projects ½ mile). Many pharmacies today offer a wide range of services such as routine immunizations, doctors' visits, medical advice and treatment of minor ailments. Therefore, the Committee considers it appropriate and valuable to add a pharmacy to the Medical Clinic Site Amenity Point Category. This also aligns CDLAC regulations with the Tax Credit Allocation Committee's regulations. The amendment to this point category will not have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business with the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

(j)(2)(E)

To ensure public benefit points are provided to projects that provide low and moderate income residents accessible medical services in their immediate area, the proposed language requires that medical clinics accept Medi-Cal payments or have an equally comprehensive subsidy program for low-income patients. This aligns CDLAC regulations with the Tax Credit Allocation Committee's regulations. The amendment to this point category will not have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business with the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

(l)(1)(E)

Past applicants have had difficulty understanding the full time equivalent (FTE) formula definition. Proposed language thoroughly defines the full time equivalent (FTE) formula. The creation or elimination of jobs is not required for an Applicant to meet this elective requirement. However, the new requirement may result in an increase to the number of hours an existing service coordinator/social worker must work in order for the project to qualify for points under this elective point category. There is no impact on the creation of new businesses or the elimination of existing business with the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

Amendment language regarding state or federal rental assistance

Proposed language allows for projects that have been receiving and will continue to receive state or federal project-based rental assistance or a state or federal operating subsidy for a minimum of the last five (5) years to take advantage of the market study waiver exception. This will result in a minimal savings to projects that qualify for the market study waiver. The amendment to this minimum requirement category will not have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing

business with the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

Benefits of the Regulations:

To the extent the proposed regulations are utilized, the construction and rehabilitation of the multifamily housing projects will benefit the health and welfare of the California residents who will occupy such housing. In addition, to the extent that the proposed services amenity requirements are elected and met, on-going and frequent services will benefit the health and welfare of the California multifamily housing residents who take advantage of such services. To the extent that tax exempt bonds are utilized to finance the production or rehabilitation of multifamily housing projects, it is possible that the use of tax exempt bond proceeds will increase economic activity and employment development.

Alternatives Considered

The Committee did not consider any alternatives to the proposed regulations because it believes the proposed regulations are the best way to proceed in regards to the health and welfare of the California residents who will occupy such housing and take advantage of such services.

Fiscal Impact

The Executive Director of the Committee has determined that the Proposed Regulations do not impose any additional cost or savings requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the California Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any State Agency pursuant to Government Code Section 11346.1(b) or 11346.5(a)(6).